

# Exhibit C

# EXHIBIT A

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Plaintiff NATERA, INC. and Non-Party  
Howard Hochster

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

GUARDANT HEALTH, INC.,  
  
*Plaintiff and  
Counterclaim-Defendant,*

vs.

NATERA, INC.,  
  
*Defendant and  
Counterclaim-Plaintiff.*

CASE No. 3:21-cv-04062-EMC

**NON-PARTY HOWARD S. HOCHSTER,  
M.D.'S OBJECTIONS AND RESPONSES TO  
GUARDANT HEALTH'S NOTICE OF  
SUBPOENA DUCES TECUM**

1 Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, non-party Howard S.  
2 Hochster, M.D. hereby objects and responds to the Subpoena Duces Tecum to Testify (“Subpoena”)  
3 dated February 25, 2024 (the “Subpoena”) served by Plaintiff and Counterclaim-Defendant  
4 Guardant Health, Inc. (“Guardant” or “Plaintiff”) in the above-captioned proceeding. Without  
5 waiving any rights, Dr. Hochster provides these objections and responses pursuant to the Court’s  
6 orders permitting limited additional discovery. *See* February 21, 2024 Minute Order (Dkt. 471) at  
7 1; March 12, 2024 Order Denying Guardant’s Motion to Strike (Dkt. 493); March 14, 2024 Pretrial  
8 Conference Order (Dkt. 501).

9 Dr. Hochster reserves the right to revise, supplement, correct, or add to this response.

#### 10 **RESERVATION OF RIGHTS**

11 These Responses are based on Dr. Hochster’s interpretation and understanding of the  
12 Subpoena and its “DOCUMENT REQUESTS” based on his current knowledge, understanding, and  
13 belief as to the facts and the information available to it as of the date of these Responses. Additional  
14 discovery and investigation may lead to additions to or changes in these Responses. These  
15 Responses, therefore, are being given without prejudice to Dr. Hochster’s right to revise, amend,  
16 correct, supplement, modify, or clarify his Responses. Dr. Hochster also reserves the right to  
17 produce subsequently discovered information and to introduce such subsequently discovered  
18 information at the time of any hearing or trial in this action.

19 In responding to Guardant’s Subpoena and its “DOCUMENT REQUESTS,” Dr. Hochster  
20 does not waive any objection that may be applicable to: (a) the use for any purpose of any  
21 information or documents given in response to Guardant’s “DOCUMENT REQUESTS,” or (b) the  
22 authenticity, admissibility, relevancy, or materiality of any of the information or documents to any  
23 issue in this case.

24 Dr. Hochster also does not waive any objection made in these Responses, or any claim of  
25 privilege, whether expressly asserted or not, by providing any information or identifying any  
26 document or thing in response to the Subpoena. The inadvertent disclosure of such information or  
27 the inadvertent identification or production of any documents shall not constitute a waiver of any  
28

1 applicable privilege as to that document or any other document identified or produced by Dr.  
2 Hochster.

3 Neither the fact that Dr. Hochster has provided information in response to the Subpoena nor  
4 the responses themselves shall be construed as a waiver of any objections or construed as an  
5 admission or acknowledgement that the Subpoena or its “DOCUMENT REQUESTS” are proper;  
6 that the documents or information sought are relevant, material, or otherwise within the proper  
7 bounds of discovery; that such documents or information are properly discoverable; or that other  
8 such discovery requests will be treated in a similar fashion in this or any other proceeding.

9 All objections as to privilege, immunity, relevance, authenticity, or admissibility of any  
10 information or documents herein are expressly reserved.

### 11 GENERAL OBJECTIONS

12 Dr. Hochster objects to the Subpoena and the DOCUMENT REQUESTS on the ground that  
13 they impose upon him obligations far exceeding the requirements of the Federal Rules of Civil  
14 Procedure and the Court’s orders permitting only limited additional discovery regarding the  
15 COBRA trial. *See* February 21, 2024 Minute Order (Dkt. 471) at 1 (“The Court expressed its  
16 skepticism that this scope of discovery is needed to respond to Dr. Hochster’s report. . . .  
17 Nonetheless, *some* discovery is needed.”); March 6, 2024 Order Denying Guardant’s Motion to  
18 Strike (Dkt. 493) (“Because *the COBRA trial* is admissible for at least a limited purpose, the parties  
19 may conduct *focused* discovery as previously discussed.”); March 14, 2024 Pretrial Conference  
20 Order (Dkt. 501) (“The Court recently held that *the COBRA study* is admissible for a limited  
21 purpose at trial, and that the parties may conduct *focused discovery* as previously discussed. The  
22 Court orders that this *limited, additional discovery* is to be completed by June 7, 2024.”) (emphasis  
23 added). Dr. Hochster further objects to the extent any DOCUMENT REQUEST, Instruction, or  
24 Definition is irrelevant, overly broad, unduly burdensome, or not proportional to the needs of the  
25 case.

26 Dr. Hochster further objects to the Subpoena on the grounds that it is unduly burdensome,  
27 oppressive, seeks irrelevant information, and/or was served for an improper purpose, including but  
28 not limited to harass, oppress, and/or overburden Dr. Hochster, a third party and practicing

1 physician, through intrusive requests about compensation and alleged conflicts of interest, and is  
2 inconsistent with the parties' conduct during discovery, and from what the parties previously  
3 discussed and agreed to during meet and confers during this case. These discovery requests are  
4 unprecedented in that neither party has served document requests or subpoenas on an expert retained  
5 by a party in this action. Significantly, no expert has been subjected to any document request  
6 discovery, much less to requests that are burdensome, unduly broad, and over-reaching like those  
7 herein. Much of the information requested can be obtained through less burdensome means, such  
8 as by deposing Dr. Hochster, which Natera has offered.

9 Dr. Hochster further objects to the Subpoena, including its 21 document requests, on the  
10 grounds that it is disproportionate to the needs of the case both in terms scope and number. As  
11 discussed above, Guardant's requests far exceed the "limited" and "focused" scope of COBRA  
12 discovery that the Court ordered. Moreover, Guardant did not serve anywhere near this many  
13 requests on any other third party (12 document requests to Dr. Pashtoon Kasi, 5 document requests  
14 to Dr. Jim Martineau, and 5 document requests to Dr. Paul Billings).

15 Dr. Hochster further objects to the Subpoena on the ground that they are duplicative of prior  
16 discovery in this action, or otherwise seeks documents and information already known to Guardant.  
17 By way of example, Document Request Nos. 2, 15-17, and 21 seek "All DOCUMENTS YOU used,  
18 cited or relied upon in connection with" Dr. Hochster's expert reports, "All DOCUMENTS relied  
19 on by YOU as support for YOUR opinion[s]," and "DOCUMENTS . . . YOU considered in forming  
20 YOUR opinions in THIS LAWSUIT." But Dr. Hochster already identified the documents he  
21 considered and relied upon in forming his opinions in this lawsuit through Dr. Hochster's "Materials  
22 Considered" appendices which were appended to Dr. Hochster's expert reports. Guardant is in  
23 possession of those documents.

24 Dr. Hochster further objects to the Subpoena and its "DOCUMENT REQUESTS" as  
25 overbroad and unduly burdensome to the extent that they call for the identification of "all," "any,"  
26 or "each" document or piece of information relating to the identified topics, as many do. It is  
27 impossible to represent, even after diligent search and consideration, that "all," "any," or "each"

28

1 document or piece of information falling within the identified topic can be or has been located or  
2 identified. Such requests are unreasonable on their face.

3 Dr. Hochster further objects to the Subpoena and its “DOCUMENT REQUESTS” to the  
4 extent they call for information, documents, or other materials covered by the attorney-client  
5 privilege, the work product doctrine, the joint defense or common interest privilege, and/or any other  
6 applicable privilege or protection, including those of Dr. Hochster’s, Natera’s and/or Natera’s  
7 attorneys. Certain requests expressly call for privileged communications with attorneys, which  
8 improper and unreasonable.

9 Dr. Hochster further objects to the Subpoena on the ground that it is overly broad and  
10 imposes an undue burden and expense on non-party Dr. Hochster, contrary to the provisions of Fed.  
11 R. Civ. P. 45(d)(1), and that Guardant has failed to take reasonable steps to avoid imposing undue  
12 burden or expense upon Dr. Hochster as required by Fed. R. Civ. P. 45(d)(1). Dr. Hochster is an  
13 individual and an expert in this action retained by Natera. Many of the documents sought by the 21  
14 “DOCUMENT REQUESTS” in this subpoena relate to Natera’s documents and communications  
15 and should have been sought in the first instance during the discovery period from Natera—a party  
16 to this dispute—and not from an individual and non-party like Dr. Hochster.

17 The objections set forth above are hereby incorporated in each specific response set forth  
18 below, as if fully set forth therein, and shall be deemed to be continuing even though not specifically  
19 referred to. No such objection is waived by Dr. Hochster responding to a Request in whole or in  
20 part.

21 Further, Dr. Hochster objects to the following definitions:

- 22 - **Communication:** Dr. Hochster objects to Guardant’s definition of “Communication” as  
23 overbroad, vague, and unduly burdensome. Dr. Hochster will interpret “Communication”  
24 according to its ordinary and customary usage.
- 25 - **Concerning:** Dr. Hochster objects to Guardant’s definition of “Concerning” as overbroad,  
26 vague, and unduly burdensome. Dr. Hochster will interpret “Concerning” according to its  
27 ordinary and customary usage.

- 1 - **Document:** Dr. Hochster objects to Guardant’s definition of “Document” to the extent it is  
2 inconsistent with, or purports to expand Dr. Hochster’s obligations under, the Federal Rules  
3 of Civil Procedure. Dr. Hochster will interpret “Document” in accordance with the Federal  
4 Rules of Civil Procedure.
- 5 - **Guardant:** Dr. Hochster objects to Guardant’s definition of “Guardant” as overbroad and  
6 unduly burdensome because it includes “subsidiaries” but also not inclusive enough because  
7 it leaves out “agents.” Dr. Hochster will interpret “Guardant” to mean Guardant, its officers,  
8 directors, employees, and agents.
- 9 - **NCI:** Dr. Hochster objects to Guardant’s definition of “NCI” as overbroad and unduly  
10 burdensome because it includes all of NCI’s “officers, directors, and employees.” Dr.  
11 Hochster will interpret “NCI” to mean the National Cancer Institute.
- 12 - **Natera:** Dr. Hochster objects to Guardant’s definition of “Natera” as overbroad and unduly  
13 burdensome because it includes “subsidiaries.” Dr. Hochster will interpret “Natera” to mean  
14 Natera, Inc. and its employees.
- 15 - **Person:** Dr. Hochster objects to Guardant’s definition of “Person” as overbroad,  
16 burdensome, vague, and ambiguous. Dr. Hochster will interpret “Person” according to its  
17 ordinary and customary usage.
- 18 - **Protocol:** Dr. Hochster objects to Guardant’s definition of “Protocol” as overbroad,  
19 burdensome, vague, and ambiguous. Dr. Hochster will interpret “Protocol” according to its  
20 ordinary and customary usage.
- 21 - **You, Your or Yours:** Dr. Hochster objects to Guardant’s definition of “You, Your or Yours”  
22 as overbroad, burdensome, vague, and ambiguous, including because they refer to  
23 interrogatories. Dr. Hochster will interpret these terms as referring to himself.

24 Dr. Hochster reserves the right to supplement or amend his objections and responses,  
25 including without limitation based on information he may learn or discover as the case progresses  
26 either from his or his counsel’s own investigation or from Guardant’s responses to discovery.

27  
28



1                   **OBJECTIONS AND RESPONSES TO DOCUMENT REQUESTS**

2           **REQUEST NO. 1:**

3           DOCUMENTS sufficient to show any current or past agreement(s), contractual or otherwise,  
4 between YOU and NATERA, including any copies of the agreement(s) themselves.

5           **RESPONSE TO NO. 1:**

6           Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr.  
7 Hochster further objects to this request as untimely, disproportionate, and contrary to the conduct  
8 and agreement of the parties during and after discovery in this action, and contrary to the Court's  
9 orders regarding the limited scope of further discovery. *See* February 21, 2024 Minute Order (Dkt.  
10 471) at 1; March 6, 2024 Order Denying Guardant's Motion to Strike (Dkt. 493); March 14, 2024  
11 Pretrial Conference Order (Dkt. 501 at 7). Dr. Hochster further objects to this request on the grounds  
12 that it purports to impose obligations greater than and inconsistent with those in Federal Rule of  
13 Civil Procedure 26, including by purporting to require the production of irrelevant information  
14 and/or information not proportional to Guardant's needs in the case, such as agreements unrelated  
15 to the issues in the litigation. Dr. Hochster further objects to this request as overbroad, unduly  
16 burdensome, vague, and ambiguous, including because it is unlimited in time and subject matter.  
17 Dr. Hochster further objects to this request to the extent it seeks information subject to the attorney-  
18 client privilege, work product doctrine, or any other privilege or immunity.

19           Subject to and without waiving the foregoing objections, and noting that no other expert has  
20 provided such discovery in this litigation, Dr. Hochster responds that he will produce responsive,  
21 non-privileged documents that are in his possession, custody, and control after a reasonably diligent  
22 search, if Guardant similarly agrees to produce agreements it has with its testifying experts.

23           **REQUEST NO. 2:**

24           All DOCUMENTS YOU used, cited or relied upon in connection with the HOCHSTER  
25 SUPPLEMENT or in producing the HOCHSTER SUPPLEMENT, regardless of whether the  
26 DOCUMENT was listed or mentioned in the HOCHSTER SUPPLEMENT, including all  
27 calculations, backup calculations, notes, or work product created in the process of writing the  
28 HOCHSTER SUPPLEMENT, exclusive of draft copies of the HOCHSTER SUPPLEMENT.

1 **RESPONSE TO NO. 2:**

2 Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr.  
3 Hochster further objects to this request on the grounds that it purports to impose obligations greater  
4 than and inconsistent with those in Federal Rule of Civil Procedure 26, and contrary to the Court's  
5 orders regarding the limited scope of further discovery. *See* February 21, 2024 Minute Order (Dkt.  
6 471) at 1; March 6, 2024 Order Denying Guardant's Motion to Strike (Dkt. 493); March 14, 2024  
7 Pretrial Conference Order (Dkt. 501 at 7). Dr. Hochster further objects to this request to the extent  
8 it seeks any information subject to the attorney-client privilege, work product doctrine, or any other  
9 privilege or immunity. Dr. Hochster further objects to this request to the extent it seeks information  
10 that is already in Guardant's possession, custody, or control, including because Dr. Hochster has  
11 already identified and disclosed the information he considered in forming his opinions in compliance  
12 with Federal Rule of Civil Procedure 26(a)(2).

13 Subject to and without waiving the foregoing objections, Dr. Hochster responds that he  
14 and/or Natera has already produced and/or disclosed all documents, facts, or data considered by Dr.  
15 Hochster in forming his opinions in his Supplemental Report, consistent with Federal Rule of Civil  
16 Procedure 26, or such material is readily publicly available to Guardant. If Guardant contends any  
17 such documents, facts, and/or data were not produced or disclosed, we ask you to identify it for our  
18 consideration.

19 **REQUEST NO. 3:**

20 All DOCUMENTS CONCERNING any role YOU played in COBRA.

21 **RESPONSE TO NO. 3:**

22 Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr.  
23 Hochster further objects to this request as untimely, disproportionate, and contrary to the conduct  
24 and agreement of the parties during and after discovery in this action, and contrary to the Court's  
25 orders regarding the limited scope of further discovery. *See* February 21, 2024 Minute Order (Dkt.  
26 471) at 1; March 6, 2024 Order Denying Guardant's Motion to Strike (Dkt. 493); March 14, 2024  
27 Pretrial Conference Order (Dkt. 501 at 7). Dr. Hochster further objects to this request on the grounds  
28 that it purports to impose obligations greater than and inconsistent with those in Federal Rule of

1 Civil Procedure 26, including by purporting to require the production of irrelevant information  
2 and/or information not proportional to Guardant’s needs in the case. Dr. Hochster further objects  
3 to this request as vague, ambiguous, and unintelligible, including with respect to the undefined and  
4 unqualified phrase “any role [Dr. Hochster] played in COBRA.” Dr. Hochster further objects to  
5 this request to the extent it seeks any information subject to the attorney-client privilege, work  
6 product doctrine, or any other privilege or immunity. Dr. Hochster further objects to this request to  
7 the extent it seeks information either not in Dr. Hochster’s possession, custody or control (e.g.,  
8 because it is kept by third party organizations and/or associations) or protected from disclosure by  
9 Dr. Hochster’s contractual, legal or other obligations to maintain the confidentiality of third-party  
10 confidential information. Dr. Hochster further objects to this request to the extent it calls for  
11 production of private, confidential, and/or HIPAA-protected patient information and/or protected  
12 health information (PHI). Dr. Hochster will not produce any private, confidential, and/or legally  
13 protected patient information, including medical records.

14 Subject to and without waiving the foregoing objections, and noting that no other expert has  
15 provided such discovery in this litigation, Dr. Hochster responds that his role in COBRA, as he  
16 understands the term “role” as used by Guardant, was as a participating physician rather than a  
17 principal investigator. He enrolled two of his patients into the COBRA trial, out of 15 patients  
18 enrolled more broadly by his university.

19 **REQUEST NO. 4:**

20 All DOCUMENTS CONCERNING any role YOU have played or currently play in any  
21 clinical study involving MRD testing in colorectal cancer patients, including but not limited to  
22 BESPOKE.

23 **RESPONSE TO NO. 4:**

24 Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr.  
25 Hochster further objects to this request as untimely, disproportionate, and contrary to the conduct  
26 and agreement of the parties during and after discovery in this action, and contrary to the Court’s  
27 orders regarding the limited scope of further discovery. *See* February 21, 2024 Minute Order (Dkt.  
28 471) at 1; March 6, 2024 Order Denying Guardant’s Motion to Strike (Dkt. 493); March 14, 2024

1 Pretrial Conference Order (Dkt. 501 at 7). Dr. Hochster further objects to this request on the grounds  
2 that it purports to impose obligations greater than and inconsistent with those in Federal Rule of  
3 Civil Procedure 26, including by purporting to require the production of irrelevant information  
4 and/or information not proportional to Guardant's needs in the case. Dr. Hochster further objects  
5 to this request as vague, ambiguous, and unintelligible, including with respect to the phrase "any  
6 role you played or currently play in any clinical study involving MRD testing in colorectal cancer  
7 patients." Dr. Hochster further objects to this request to the extent it seeks any information subject  
8 to the attorney-client privilege, work product doctrine, or any other privilege or immunity. Dr.  
9 Hochster further objects to this request to the extent it seeks information either not in Dr. Hochster's  
10 possession, custody or control (e.g., because it is kept by third party organizations and/or  
11 associations) or protected from disclosure by Dr. Hochster's contractual, legal or other obligations  
12 to maintain the confidentiality of third-party confidential information. Dr. Hochster further objects  
13 to this request to the extent it calls for production of private, confidential, and/or HIPAA-protected  
14 patient information and/or protected health information (PHI). Dr. Hochster will not produce any  
15 private, confidential, and/or legally protected patient information, including medical records.

16 Subject to and without waiving the foregoing objections, and noting that no other expert has  
17 provided such discovery in this litigation, Dr. Hochster responds that his role in BESPOKE, as he  
18 understands the term "role" as used by Guardant, was as a participating physician rather than a  
19 principal investigator. He enrolled six of his patients into the BESPOKE trial, out of 55 patients  
20 enrolled more broadly by his university. Dr. Hochster is willing to meet and confer regarding the  
21 scope of the remainder of this Request, including to better understand the scope of the request as to  
22 other, unnamed clinical trials.

23 **REQUEST NO. 5:**

24 DOCUMENTS sufficient to identify any National Cancer Institute Division of Cancer  
25 Treatment and Diagnosis-sponsored clinical trials in which YOU participated in the development  
26 and analysis in the last five years, and any financial conflicts of interests YOU disclosed in  
27 connection with YOUR participation in these studies.

**RESPONSE TO NO. 5:**

Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr. Hochster further objects to this request as untimely, disproportionate, and contrary to the conduct and agreement of the parties during and after discovery in this action, and contrary to the Court's orders regarding the limited scope of further discovery. *See* February 21, 2024 Minute Order (Dkt. 471) at 1; March 6, 2024 Order Denying Guardant's Motion to Strike (Dkt. 493); March 14, 2024 Pretrial Conference Order (Dkt. 501 at 7). Dr. Hochster further objects to this request on the grounds that it purports to impose obligations greater than and inconsistent with those in Federal Rule of Civil Procedure 26, including by purporting to require the production of irrelevant information and/or information not proportional to Guardant's needs in the case. Dr. Hochster further objects to this request as overbroad, unduly burdensome, vague, ambiguous, and unintelligible, at least because it includes the terms "participated in the development and analysis," and is not reasonably limited in time or scope. Dr. Hochster further objects to this request to the extent it requests information or documents that are a matter of public record equally accessible and/or ascertainable to Guardant. Dr. Hochster further objects to this request to the extent it seeks information either not in Dr. Hochster's possession, custody or control (e.g., because it is kept by third party organizations and/or associations) or protected from disclosure by Dr. Hochster's contractual, legal or other obligations to maintain the confidentiality of third-party confidential information.

Subject to and without waiving the foregoing objections, and noting that no other expert has provided such discovery in this litigation, Dr. Hochster responds that it is unclear how this Request is relevant, particularly to the COBRA trial. As he was not a principal investigator, Dr. Hochster did not formally participate in the development or analysis of the COBRA trial. Nevertheless, Dr. Hochster is willing to meet and confer regarding the scope of this Request.

**REQUEST NO. 6:**

YOUR COMMUNICATIONS CONCERNING COBRA, including but not limited to COMMUNICATIONS CONCERNING the COBRA abstract and data presented at ASCO-GI 2024, with any PERSON, including but not limited to the COBRA INVESTIGATORS, NRG, NCI, NATERA, GUARDANT or any other oncologist.

1 **RESPONSE TO NO. 6:**

2 Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr.  
3 Hochster further objects to this request as untimely, disproportionate, and contrary to the conduct  
4 and agreement of the parties during and after discovery in this action, and contrary to the Court's  
5 orders regarding the limited scope of further discovery. *See* February 21, 2024 Minute Order (Dkt.  
6 471) at 1; March 6, 2024 Order Denying Guardant's Motion to Strike (Dkt. 493); March 14, 2024  
7 Pretrial Conference Order (Dkt. 501 at 7). Dr. Hochster further objects to this request on the grounds  
8 that it purports to impose obligations greater than and inconsistent with those in Federal Rule of  
9 Civil Procedure 26, including by purporting to require the production of irrelevant information  
10 and/or information not proportional to Guardant's needs in the case. Dr. Hochster further objects  
11 to this request as overbroad, unduly burdensome, vague, ambiguous, and unintelligible, including  
12 because it seeks communications "with any PERSON" or "any other oncologist" and is not  
13 reasonably limited in time or scope (including because it purports to encompass work for this  
14 litigation). Dr. Hochster further objects to this request to the extent it seeks any information subject  
15 to the attorney-client privilege, work product doctrine, or any other privilege or immunity. Dr.  
16 Hochster further objects to this request to the extent it seeks information either not in Dr. Hochster's  
17 possession, custody or control (e.g., because it is kept by third party organizations and/or  
18 associations) or protected from disclosure by Dr. Hochster's contractual, legal or other obligations  
19 to maintain the confidentiality of third-party confidential information. Dr. Hochster further objects  
20 to this request to the extent it calls for production of private, confidential, and/or HIPAA-protected  
21 patient information and/or protected health information (PHI). Dr. Hochster will not produce any  
22 private, confidential, and/or legally protected patient information, including medical records.

23 Subject to and without waiving the foregoing objections, Dr. Hochster responds that  
24 following a reasonably diligent search, Dr. Hochster is not aware of any non-privileged  
25 communications he has had with the COBRA investigators, NRG, NCI, Natera, or Guardant  
26 regarding COBRA. Dr. Hochster further responds that he will produce responsive, non-privileged  
27 published documents he authored regarding COBRA, if any, that are in his possession, custody, and  
28 control after a reasonably diligent search.

1 **REQUEST NO. 7:**

2 ALL DOCUMENTS CONCERNING any COMMUNICATIONS CONCERNING COBRA  
3 between YOU and any PERSON, including but not limited to the COBRA INVESTIGATORS,  
4 NRG, NCI, NATERA, GUARDANT or any other oncologist.

5 **RESPONSE TO NO. 7:**

6 Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr.  
7 Hochster further objects to this request as untimely, disproportionate, and contrary to the conduct  
8 and agreement of the parties during and after discovery in this action, and contrary to the Court's  
9 orders regarding the limited scope of further discovery. *See* February 21, 2024 Minute Order (Dkt.  
10 471) at 1; March 6, 2024 Order Denying Guardant's Motion to Strike (Dkt. 493); March 14, 2024  
11 Pretrial Conference Order (Dkt. 501 at 7). Dr. Hochster further objects to this request on the grounds  
12 that it purports to impose obligations greater than and inconsistent with those in Federal Rule of  
13 Civil Procedure 26, including by purporting to require the production of irrelevant information  
14 and/or information not proportional to Guardant's needs in the case. Dr. Hochster further objects  
15 to this request as overbroad, unduly burdensome, vague, ambiguous, and unintelligible, including  
16 because it seeks communications "with any PERSON" or "any other oncologist" and is not  
17 reasonably limited in time or scope (including because it purports to encompass work for this  
18 litigation). Dr. Hochster further objects to this request to the extent it seeks any information subject  
19 to the attorney-client privilege, work product doctrine, or any other privilege or immunity. Dr.  
20 Hochster further objects to this request to the extent it seeks information either not in Dr. Hochster's  
21 possession, custody or control (e.g., because it is kept by third party organizations and/or  
22 associations) or protected from disclosure by Dr. Hochster's contractual, legal or other obligations  
23 to maintain the confidentiality of third-party confidential information. Dr. Hochster further objects  
24 to this request to the extent it calls for production of private, confidential, and/or HIPAA-protected  
25 patient information and/or protected health information (PHI). Dr. Hochster will not produce any  
26 private, confidential, and/or legally protected patient information, including medical records.

27 Subject to and without waiving the foregoing objections, Dr. Hochster responds that  
28 following a reasonably diligent search, Dr. Hochster is not aware of any non-privileged



1 communications he has had with the COBRA investigators, NRG, NCI, Natera, or Guardant  
2 regarding COBRA. Dr. Hochster further responds that he will produce responsive, non-privileged  
3 published documents he authored regarding COBRA, if any, that are in his possession, custody, and  
4 control after a reasonably diligent search.

5 **REQUEST NO. 8:**

6 DOCUMENTS sufficient to show the number of YOUR patients who were enrolled in  
7 COBRA.

8 **RESPONSE TO NO. 8:**

9 Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr.  
10 Hochster further objects to this request as duplicative of Request No. 3, and refers Guardant to his  
11 objections and response to that Request, which are incorporated by reference herein.

12 **REQUEST NO. 9:**

13 ALL DOCUMENTS CONCERNING any COMMUNICATIONS reflecting YOUR  
14 knowledge or awareness of data CONCERNING the clinical outcomes or recurrence status of any  
15 patient enrolled in COBRA.

16 **RESPONSE TO NO. 9:**

17 Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr.  
18 Hochster further objects to this request as untimely, disproportionate, and contrary to the conduct  
19 and agreement of the parties during and after discovery in this action, and contrary to the Court's  
20 orders regarding the limited scope of further discovery. *See* February 21, 2024 Minute Order (Dkt.  
21 471) at 1; March 6, 2024 Order Denying Guardant's Motion to Strike (Dkt. 493); March 14, 2024  
22 Pretrial Conference Order (Dkt. 501 at 7). Dr. Hochster further objects to this request on the grounds  
23 that it purports to impose obligations greater than and inconsistent with those in Federal Rule of  
24 Civil Procedure 26, including by purporting to require the production of irrelevant information  
25 and/or information not proportional to Guardant's needs in the case. Dr. Hochster further objects  
26 to this request as overbroad, unduly burdensome, vague, and ambiguous. Dr. Hochster further  
27 objects to this request to the extent it seeks any information subject to the attorney-client privilege,  
28 work product doctrine, or any other privilege or immunity. Dr. Hochster further objects to this



request to the extent it seeks information either not in Dr. Hochster’s possession, custody or control (e.g., because it is kept by third party organizations and/or associations) or protected from disclosure by Dr. Hochster’s contractual, legal or other obligations to maintain the confidentiality of third-party confidential information. Dr. Hochster further objects to this request to the extent it calls for production of private, confidential, and/or HIPAA-protected patient information and/or protected health information (PHI). Dr. Hochster will not produce any private, confidential, and/or legally protected patient information, including medical records.

Subject to and without waiving the foregoing objections, Dr. Hochster responds that, aside from his own patients, he is not “aware” of the clinical outcomes or recurrence status of any particular patient enrolled in COBRA, except for what has been made public (including at ASCO-GI) regarding the COBRA trial. Dr. Hochster is not at liberty to share the clinical outcome or recurrence status of his patients.

**REQUEST NO. 10:**

YOUR COMMUNICATIONS CONCERNING REVEAL with any PERSON, including but not limited to the COBRA INVESTIGATORS, NRG, NCI, NATERA, GUARDANT or any other oncologist. For the elimination of doubt, this request excludes communications to YOUR patients concerning the results of any testing performed using REVEAL.

**RESPONSE TO NO. 10:**

Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr. Hochster further objects to this request as untimely, disproportionate, and contrary to the conduct and agreement of the parties during and after discovery in this action, and contrary to the Court’s orders regarding the limited scope of further discovery. *See* February 21, 2024 Minute Order (Dkt. 471) at 1; March 6, 2024 Order Denying Guardant’s Motion to Strike (Dkt. 493); March 14, 2024 Pretrial Conference Order (Dkt. 501 at 7). Dr. Hochster further objects to this request on the grounds that it purports to impose obligations greater than and inconsistent with those in Federal Rule of Civil Procedure 26, including by purporting to require the production of irrelevant information and/or information not proportional to Guardant’s needs in the case. Dr. Hochster further objects to this request as overbroad, unduly burdensome, vague, ambiguous, and unintelligible, including

1 because it is not limited to any particular person or time frame. Dr. Hochster will not undertake the  
2 unduly burdensome search for responsive communications across all communications he has ever  
3 had with anybody. Dr. Hochster further objects to this request to the extent it seeks any information  
4 subject to the attorney-client privilege, work product doctrine, or any other privilege or immunity.  
5 Dr. Hochster further objects to this request to the extent it seeks information protected from  
6 disclosure by Dr. Hochster's contractual, legal or other obligations to maintain the confidentiality  
7 of third-party confidential information. Dr. Hochster understands further objects to this request to  
8 the extent it calls for production of private, confidential, and/or HIPAA-protected patient  
9 information and/or protected health information (PHI). Dr. Hochster will not produce any private,  
10 confidential, and/or legally protected patient information, including medical records.

11 Subject to and without waiving the foregoing objections, Dr. Hochster responds that  
12 following a reasonably diligent search he is not aware of any non-privileged communications with  
13 COBRA Investigators, NRG, NCI, Natera, or Guardant regarding Reveal. Dr. Hochster further  
14 responds that he will produce responsive, non-privileged published documents he authored  
15 regarding Reveal, if any, that are in his possession, custody, and control after a reasonably diligent  
16 search.

17 **REQUEST NO. 11:**

18 All DOCUMENTS and COMMUNICATIONS CONCERNING any review, commentary,  
19 or criticism of REVEAL, COBRA and/or the COBRA PROTOCOL YOU have prepared or  
20 disseminated in any way, whether privately or publicly, including in webinars, presentations, articles  
21 or on social media.

22 **RESPONSE TO NO. 11:**

23 Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr.  
24 Hochster further objects to this request as untimely, disproportionate, and contrary to the conduct  
25 and agreement of the parties during and after discovery in this action, and contrary to the Court's  
26 orders regarding the limited scope of further discovery. *See* February 21, 2024 Minute Order (Dkt.  
27 471) at 1; March 6, 2024 Order Denying Guardant's Motion to Strike (Dkt. 493); March 14, 2024  
28 Pretrial Conference Order (Dkt. 501 at 7). Dr. Hochster further objects to this request on the grounds

1 that it purports to impose obligations greater than and inconsistent with those in Federal Rule of  
2 Civil Procedure 26, including by purporting to require the production of irrelevant information  
3 and/or information not proportional to Guardant's needs in the case. Dr. Hochster further objects  
4 to this request as overbroad, unduly burdensome, vague, and ambiguous, including with respect to  
5 the phrase "any review, commentary, or criticism," and because it is unlimited in time or scope. Dr.  
6 Hochster will not undertake the unduly burdensome search for any "review, commentary, or  
7 criticism" that he has "disseminated in any way, whether privately or publicly." Dr. Hochster further  
8 objects to this request to the extent it seeks any information subject to the attorney-client privilege,  
9 work product doctrine, or any other privilege or immunity. Dr. Hochster further objects to this  
10 request to the extent it seeks information either not in Dr. Hochster's possession, custody or control  
11 or protected from disclosure by Dr. Hochster's contractual, legal or other obligations to maintain  
12 the confidentiality of third-party confidential information. Dr. Hochster understands further objects  
13 to this request to the extent it calls for production of private, confidential, and/or HIPAA-protected  
14 patient information and/or protected health information (PHI). Dr. Hochster will not produce any  
15 private, confidential, and/or legally protected patient information, including medical records.

16 Subject to and without waiving the foregoing objections, and noting that no other expert has  
17 provided such discovery in this litigation, Dr. Hochster responds that he will produce reviews,  
18 commentary, or criticism about COBRA that he has published or presented in a public forum and  
19 that he is able to locate following a reasonable diligent search. Following a reasonably diligent  
20 search, Dr. Hochster is not aware of any non-privileged, private responsive communication  
21 regarding COBRA or its protocol.

22 **REQUEST NO. 12:**

23 All DOCUMENTS and COMMUNICATIONS CONCERNING any statements YOU have  
24 made, whether privately or publicly, including in webinars, presentations, articles or on social  
25 media, regarding COBRA or its PROTOCOL.  
26  
27  
28

1 **RESPONSE TO NO. 12:**

2 Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr.  
3 Hochster further objects to this request as duplicative of Request No. 11, and refers Guardant to his  
4 objections and response to that Request, which are incorporated by reference herein.

5 **REQUEST NO. 13:**

6 All DOCUMENTS and COMMUNICATIONS CONCERNING any statements YOU have  
7 made, whether privately or publicly, including in webinars, presentations, articles or on social  
8 media, in support or promotion of NATERA or SIGNATERA.

9 **RESPONSE TO NO. 13:**

10 Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr.  
11 Hochster further objects to this request as untimely, disproportionate, and contrary to the conduct  
12 and agreement of the parties during and after discovery in this action, and contrary to the Court's  
13 orders regarding the limited scope of further discovery. *See* February 21, 2024 Minute Order (Dkt.  
14 471) at 1; March 6, 2024 Order Denying Guardant's Motion to Strike (Dkt. 493); March 14, 2024  
15 Pretrial Conference Order (Dkt. 501 at 7). Dr. Hochster further objects to this request on the grounds  
16 that it purports to impose obligations greater than and inconsistent with those in Federal Rule of  
17 Civil Procedure 26, including by purporting to require the production of irrelevant information  
18 and/or information not proportional to Guardant's needs in the case. Dr. Hochster further objects  
19 to this request as overbroad, unduly burdensome, vague, and ambiguous, including with respect to  
20 the phrase "whether privately or publicly," "in support," and "promotion," and is unlimited in time  
21 or scope. Dr. Hochster further objects to this request to the extent it seeks any information subject  
22 to the attorney-client privilege, work product doctrine, or any other privilege or immunity. Dr.  
23 Hochster further objects to this request to the extent it seeks information either not in Dr. Hochster's  
24 possession, custody or control or protected from disclosure by Dr. Hochster's contractual, legal or  
25 other obligations to maintain the confidentiality of third-party confidential information. Dr.  
26 Hochster understands further objects to this request to the extent it calls for production of private,  
27 confidential, and/or HIPAA-protected patient information and/or protected health information

1 (PHI). Dr. Hochster will not produce any private, confidential, and/or legally protected patient  
2 information, including medical records.

3 Subject to and without waiving the foregoing objections, and noting that no other expert has  
4 provided such discovery in this litigation, Dr. Hochster responds that it is unclear how his private  
5 and/or public comments regarding Natera or Signatera is relevant, particularly to the COBRA trial,  
6 as neither Signatera nor Natera was involved in the COBRA trial. Nevertheless, Dr. Hochster is  
7 willing to meet and confer regarding the scope of this Request.

8 **REQUEST NO. 14:**

9 All DOCUMENTS and COMMUNICATIONS CONCERNING any statements YOU have  
10 made, whether privately or publicly, including in webinars, presentations, articles or on social  
11 media, regarding SIGNATERA, REVEAL and/or the advantages and/or disadvantages of plasma-  
12 only approaches to MRD detection in CRC compared to tumor-tissue informed approaches.

13 **RESPONSE TO NO. 14:**

14 Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr.  
15 Hochster further objects to this request as untimely, disproportionate, and contrary to the conduct  
16 and agreement of the parties during and after discovery in this action, and contrary to the Court's  
17 orders regarding the limited scope of further discovery. *See* February 21, 2024 Minute Order (Dkt.  
18 471) at 1; March 6, 2024 Order Denying Guardant's Motion to Strike (Dkt. 493); March 14, 2024  
19 Pretrial Conference Order (Dkt. 501 at 7). Dr. Hochster further objects to this request on the grounds  
20 that it purports to impose obligations greater than and inconsistent with those in Federal Rule of  
21 Civil Procedure 26, including by purporting to require the production of irrelevant information  
22 and/or information not proportional to Guardant's needs in the case, such as any statement made  
23 regarding Signatera or Reveal. Dr. Hochster further objects to this request as overbroad, unduly  
24 burdensome, vague, and ambiguous, including with respect to the phrase "whether privately or  
25 publicly," and is unlimited in time or scope. Dr. Hochster further objects to this request to the extent  
26 it seeks any information subject to the attorney-client privilege, work product doctrine, or any other  
27 privilege or immunity. Dr. Hochster further objects to this request to the extent it seeks information  
28 either not in Dr. Hochster's possession, custody or control or protected from disclosure by Dr.

1 Hochster’s contractual, legal or other obligations to maintain the confidentiality of third-party  
2 confidential information. Dr. Hochster understands further objects to this request to the extent it  
3 calls for production of private, confidential, and/or HIPAA-protected patient information and/or  
4 protected health information (PHI). Dr. Hochster will not produce any private, confidential, and/or  
5 legally protected patient information, including medical records.

6 Subject to and without waiving the foregoing objections, and noting that no other expert has  
7 provided such discovery in this litigation, Dr. Hochster responds that it is unclear how his private  
8 and/or public comments regarding Signatera, Reveal, or advantages and/or disadvantages of tumor-  
9 naïve and tumor-informed MRD assays is relevant to the COBRA trial. As noted, Signatera was  
10 not involved in the COBRA Trial. Nevertheless, Dr. Hochster is willing to meet and confer  
11 regarding the scope of this Request.

12 **REQUEST NO. 15:**

13 All DOCUMENTS relied on by YOU as support for YOUR opinion that “at least 40-60%  
14 of patients who tests [sic] positive for dtDNA at the baseline and receive chemotherapy thereafter  
15 are expected to see ctDNA clearance (...) after six months.”

16 **RESPONSE TO NO. 15:**

17 Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr.  
18 Hochster further objects to this request to the extent it seeks information that is already in Guardant’s  
19 possession, custody, or control, including because Dr. Hochster has already identified documents  
20 he relied on, including in “Materials Considered” appendices.

21 Subject to and without waiving the foregoing objections, Dr. Hochster responds that he  
22 and/or Natera has already produced and/or disclosed all documents relied on by Dr. Hochster in  
23 forming his opinions in his Supplemental Report, consistent with Federal Rule of Civil Procedure  
24 26, or such material is readily publicly available to Guardant. If Guardant contends any such  
25 documents were not produced or disclosed, we ask you to identify it for our consideration.

1 **REQUEST NO. 16:**

2 All DOCUMENTS relied on by YOU as support for YOUR opinion that “the oncology and  
3 scientific community raised concerns about the Reveal assay specificity following the COBRA  
4 announcement.”

5 **RESPONSE TO NO. 16:**

6 Dr. Hochster incorporates by reference all of his prior General Objections herein, including  
7 his objections to defined terms. Dr. Hochster further objects to this request to the extent it seeks  
8 information that is already in Guardant’s possession, custody, or control, including because Dr.  
9 Hochster has already identified documents he relied on, including in “Materials Considered”  
10 appendices.

11 Subject to and without waiving the foregoing objections, Dr. Hochster responds that he  
12 and/or Natera has already produced and/or disclosed all documents relied on by Dr. Hochster in  
13 forming his opinions in his Supplemental Report, consistent with Federal Rule of Civil Procedure  
14 26, or such material is readily publicly available to Guardant. If Guardant contends any such  
15 documents were not produced or disclosed, we ask you to identify it for our consideration.

16 **REQUEST NO. 17:**

17 All DOCUMENTS relied on by YOU as support for YOUR opinion that “the true  
18 performance of Reveal, as exposed, is too prone to aberrant results, cannot meet expectations, and  
19 is not on par with tumor-informed tests.”

20 **RESPONSE TO NO. 17:**

21 Dr. Hochster incorporates by reference all of his prior General Objections herein, including  
22 his objections to defined terms. Dr. Hochster further objects to this request to the extent it seeks  
23 information that is already in Guardant’s possession, custody, or control, including because Dr.  
24 Hochster has already identified documents he relied on, including in “Materials Considered”  
25 appendices.

26 Subject to and without waiving the foregoing objections, Dr. Hochster responds that he  
27 and/or Natera has already produced and/or disclosed all documents relied on by Dr. Hochster in  
28 forming his opinions in his Supplemental Report, consistent with Federal Rule of Civil Procedure



26, or such material is readily publicly available to Guardant. If Guardant contends any such documents were not produced or disclosed, we ask you to identify it for our consideration.

**REQUEST NO. 18:**

DOCUMENTS sufficient to show the date, amount of time, and activities for which YOU received compensation from NATERA for any reason, and the amount of compensation YOU received.

**RESPONSE TO NO. 18:**

Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr. Hochster further objects to this request as untimely, disproportionate, and contrary to the conduct and agreement of the parties during and after discovery in this action, and contrary to the Court's orders regarding the limited scope of further discovery. *See* February 21, 2024 Minute Order (Dkt. 471) at 1; March 6, 2024 Order Denying Guardant's Motion to Strike (Dkt. 493); March 14, 2024 Pretrial Conference Order (Dkt. 501 at 7). Dr. Hochster further objects to this request on the grounds that it purports to impose obligations greater than and inconsistent with those in Federal Rule of Civil Procedure 26, including by purporting to require the production of irrelevant information and/or information not proportional to Guardant's needs in the case, such as any compensation for activities unrelated to the issues in this case. Dr. Hochster further objects to this request to the extent it seeks any information subject to the attorney-client privilege, work product doctrine, or any other privilege or immunity, including information about Dr. Hochster's "activities" for this litigation. Dr. Hochster further objects to this request to the extent it seeks information that is already in Guardant's possession, custody, or control, including because Dr. Hochster has already disclosed payment information in his expert reports and during his deposition.

Subject to and without waiving the foregoing objections, and noting that no other expert has provided such discovery in this litigation, Dr. Hochster responds that he will produce responsive, non-privileged documents sufficient to show his compensation from Natera that are in his possession, custody, and control, if Guardant similarly agrees to produce the same compensation-related information for its testifying experts.



1 **REQUEST NO. 19:**

2 DOCUMENTS sufficient to show the date, amount of time, activities, and compensation  
3 YOU received for the activities YOU performed CONCERNING THIS LAWSUIT, including but  
4 not limited to the preparation of the HOCHSTER SUPPLEMENT.

5 **RESPONSE TO NO. 19:**

6 Dr. Hochster incorporates by reference all of his prior General Objections herein, including  
7 his objections to defined terms. Dr. Hochster further objects to this request as duplicative of Request  
8 No. 18, and refers Guardant to his objections and response to that Request, which are incorporated  
9 by reference herein.

10 **REQUEST NO. 20:**

11 DOCUMENTS sufficient to show the date of any COMMUNICATIONS between YOU and  
12 NATERA or any of its attorneys CONCERNING COBRA, REVEAL, and/or SIGNATERA.

13 **RESPONSE TO NO. 20:**

14 Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr.  
15 Hochster further objects to this request as untimely, disproportionate, and contrary to the conduct  
16 and agreement of the parties during and after discovery in this action, and contrary to the Court's  
17 orders regarding the limited scope of further discovery. *See* February 21, 2024 Minute Order (Dkt.  
18 471) at 1; March 6, 2024 Order Denying Guardant's Motion to Strike (Dkt. 493); March 14, 2024  
19 Pretrial Conference Order (Dkt. 501 at 7). Dr. Hochster further objects to this request on the grounds  
20 that it purports to impose obligations greater than and inconsistent with those in Federal Rule of  
21 Civil Procedure 26, including by purporting to require the production of irrelevant information  
22 and/or information not proportional to Guardant's needs in the case, such as any communications  
23 about Reveal or Signatera generally. Dr. Hochster further objects to this request to the extent it  
24 seeks any information subject to the attorney-client privilege, work product doctrine, or any other  
25 privilege or immunity, including by expressly seeking communications with attorneys.

26 Subject to and without waiving the foregoing objections, and noting that no other expert has  
27 provided such discovery in this litigation, Dr. Hochster responds that, following a reasonably  
28

1 diligent search, he is not aware of any non-privileged communications he has had with Natera or its  
2 attorneys regarding COBRA.

3 **REQUEST NO. 21:**

4 DOCUMENTS reflecting or CONCERNING COMMUNICATIONS between YOU and  
5 NATERA or any of its attorneys that identify facts, data or assumptions that NATERA provided  
6 and YOU considered in forming YOUR opinions in THIS LAWSUIT.

7 **RESPONSE TO NO. 21:**

8 Dr. Hochster incorporates by reference all of his prior General Objections herein. Dr.  
9 Hochster further objects to this request as untimely, disproportionate, and contrary to the conduct  
10 and agreement of the parties during and after discovery in this action, and contrary to the Court's  
11 orders regarding the limited scope of further discovery. *See* February 21, 2024 Minute Order (Dkt.  
12 471) at 1; March 6, 2024 Order Denying Guardant's Motion to Strike (Dkt. 493); March 14, 2024  
13 Pretrial Conference Order (Dkt. 501 at 7). Dr. Hochster further objects to this request to the extent  
14 it seeks any information subject to the attorney-client privilege, work product doctrine, or any other  
15 privilege or immunity, including by expressly seeking communications with attorneys. Dr.  
16 Hochster further objects to this request to the extent it seeks information that is already in Guardant's  
17 possession, custody, or control, including because Dr. Hochster has already disclosed such  
18 information in his expert reports.

19 Subject to and without waiving the foregoing objections, Dr. Hochster responds that he  
20 and/or Natera has already produced and/or disclosed all facts and data (including any assumptions)  
21 relied on by Dr. Hochster in forming his opinions in his Supplemental Report, consistent with  
22 Federal Rule of Civil Procedure 26, or such material is readily publicly available to Guardant. If  
23 Guardant contends any such facts or data (including any assumptions) were not produced or  
24 disclosed, we ask you to identify it for our consideration.

1 DATED: March 27, 2024

By /s/ Andrew J. Bramhall

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14 *Attorneys for Defendant and Counterclaim-*  
15 *Plaintiff NATERA, INC.*

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was served on counsel of record electronically or by another manner authorized under FED. R. CIV. P. 5(b) on this 27th day of March, 2024:

**Counsel for Guardant Health, Inc.: By email:**

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: March 27, 2024

QUINN EMANUEL URQUHART & SULLIVAN,  
LLP

By: /s/ Elle X. Wang  
Elle X. Wang